APPEARANCES

COMMISSIONERS
Mr. John Chiang, State Controller, Chair
Mr. John Garamendi, Lieutenant Governor
Mr. Michael C. Genest, Director of Finance, Represented by Ms. Anne Sheehan

STAFF
Mr. Paul D. Thayer, Executive Officer
Mr. Jack Rump, Chief Counsel
Mr. Matt Rodriguez, Attorney General's Office
Mr. Mario T. De Bernardo, Legislative Liaison, Staff Counsel
Ms. Kimberly Lunetta, Executive Assistant
Ms. Alicia Sabry, Executive Assistant, Long Beach

ALSO PRESENT

Mr. Tim Hemig, NRG Energy, Incorporated
Ms. Angela Haren, California Coastkeeper Alliance
Mr. John Asuncion, Blue Whale Sailing School
Ms. Ruth Gravanis, Public Trust Group
Ms. Sandy Threlfall, Public Trust Group

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
Chairperson Chiang: Good morning. I'll call this meeting of the State Lands Commission to order. All the representatives of the Commission are present.

I'm John Chiang, the State Controller. And I am very pleased to have the Lieutenant Governor, John Garamendi, here and Anne Sheehan, Chief Deputy Director of Finance, also present.

For the benefit of those in the audience, the State Lands Commission administers properties owned by the State as well as mineral interests. Today we will hear proposals concerning the leasing and management of these public properties.

The first item of business will be the adoption of the minutes from the Commission's last meeting. Is there a motion?

Commissioner Sheehan: I'll move approval.

Commissioner Garamendi: Second.

Chairperson Chiang: There's a motion by Anne seconded by John. Without objection, the motion passes.

The next is the Executive Officer's report. Paul, could we have that report please?

Executive Officer Thayer: Thank you. Good
morning, Mr. Chair, Members of the Commission.

At our last meeting, the Commission asked that staff report back on a regular basis on the progress made in resolving several violations that the Commission has been dealing with, so I want to start this meeting by doing just that. We have four different ones we're tracking right now.

The first is one, the houseboat owned by Jeanne Bird/Taylor. The Commission found that this was an illegal use, Public Trust use, on her lease and gave her until June 30th to dispose of the houseboat.

She has so far been unsuccessful in finding somebody to take that for commercial purposes to convert it to, say, an office or marina; and she's now looking into whether or not she could run a commercial marina herself.

She would, of course, have to apply to us for a lease amendment in order to do that, and we're continuing to work with her on whatever it might take to accomplish that.

But the ball's still in her court, and the clock is ticking, and June 30th is by when she needs to either remove the houseboat or come up with a Public Trust consistent use.

The second matter has to do with the Courtland
The Commission at its last meeting extended the deadline by which the owners were to make a number of improvements to the marina. They had already reconstructed their house so that it did not extend out over Public Trust Lands, but they hadn't yet gotten in the new docks.

On April 22nd, they purchased the new docks, and they anticipate that they'll be installed as soon as they are delivered which is anticipated to be end of May.

And the Commission's deadline is June 15th, so we will keep you informed as that progresses. And in fact, that June 15 deadline occurs before our next meeting, so I'll be able to let you know at the next meeting what happened.

The third item is the South Bay Yacht Club. The Commission may recall this is the yacht club where there have been problems with abandoned derelict vessels, problems with overgrown vegetation which has created a fire hazard, and docks that are kept in poor repair and a number of other items like that.

The Commission at its last meeting extended the deadline for resolving all these issues until close to the end of this year.
Since the last meeting, the Yacht Club and the water district have entered into -- have reached agreement on the terms of the lease geographically. Some of the Yacht Club is on State Lands Commission property, and some of it is on artificially created waterway that's owned by the district.

So the importance of them clearing up this lease is that BCDC was not going to authorize the improvements to the docks that we're seeking until the Yacht Club had demonstrated that it had the property right to have the docks there.

So on May 8th, the board of directors is scheduled to hear that for the water district and hopefully will approve that lease, and that will put the Yacht Club in a position then to complete its application to BCDC for these repairs.

The Yacht Club is also continuing discussions with the Department of Fish and Game for its approval which is needed for the weed removal, and we're hopeful that will progress, especially with the lease coming close to being entered into.

Then the final item is the Spirit of Sacramento. This is the large, I think, ferry boat or commercial boat that's tied up on the Yolo County side of the Sacramento River near Sacramento.
The owner has allowed that to become a boat that's in disrepair. It almost sank at least once. And it's not there pursuant to any lease from us. There had previously been a lease for the pilings to which the boat is attached, but that has expired.

The State Lands Commission staff is working with the Attorney General now -- after authorization from the Commission at the last meeting to pursue this, is working with the Attorney General's office to put together the records necessary to go to court to cause that boat to be removed.

And that concludes the report on these four violations, unless there are some questions from any of the Commissioners.

The only other thing I would mention is that our next meeting is June 24th, and that will be up in Sacramento.

CHAIRPERSON CHIANG: Very good. Thanks Paul.

EXECUTIVE OFFICER THAYER: Thank you.

CHAIRPERSON CHIANG: The next item of business is the Consent Calendar. Is there anyone in the audience who wishes to speak on an item that is still on the Consent Calendar? Seeing none --

EXECUTIVE OFFICER THAYER: Excuse me. If I could mention, there is one item we need to remove
before the vote, and that's Item 22 which is The Nature
Conservancy purchase of some school lands that have
environmental values out in the desert. We're still
working on some details, and we'll return with that to
the Commission at a future meeting.

CHAIRPERSON CHIANG: Okay.
COMMISSIONER SHEEHAN: That's the only one?
EXECUTIVE OFFICER THAYER: That's the only
one.
COMMISSIONER SHEEHAN: I'll move approval of
the Consent Calendar, if there are no comments.
CHAIRPERSON CHIANG: Very good. Motion by
Commissioner Sheehan.
COMMISSIONER GARAMENDI: Second.
CHAIRPERSON CHIANG: Seconded by Garamendi.
Without objection, the motion passes.
Next item?
EXECUTIVE OFFICER THAYER: The next item is
our sole regular calendar item. It's a resolution that
the Controller and Chair had brought to staff and asked
to be placed on the agenda.
The presentation by staff will be made by
Mario De Bernardo.
MR. De BERNARDO: Good morning, Mr. Chair,
Commissioners.
This resolution deals with the incidental takings of marine animals by once-through cooling systems, specifically once-through cooling systems in California, Southern California.

Currently, the National Marine Fisheries Services is considering 13 permits for incidental takings of marine mammals and seven permits for incidental takings of sea turtles.

And this resolution would urge the National Marine Fisheries Services to, one, consider California's policy in phasing out once-through cooling; two, deny permits for facilities that discontinue once-through cooling; three, to make information available to the Commission and the public before issuing a final permit; and lastly, implement stringent controls in their permits when they issue permits, if they do.

CHAIRPERSON CHIANG: Very good. Are there any questions or comments?

COMMISSIONER SHEEHAN: Yeah. I certainly support and applaud the Controller for this effort, and it builds on our previous once-through cooling.

The only question I had is I know when I talked to staff as to, you know, had others seen this already and had we received any comment?
EXECUTIVE OFFICER THAYER: At your suggestion, we did send a copy of this to the representative for CCEEB which was the group that protested the previous resolution and went to OAL because they did not believe it was consistent -- they thought it was a regulation that wasn't properly adopted as a regulation.

I heard no comment back other than their thanks for receiving a copy of it.

The company Energy also had a hand in some late amendments to this, and I think there is a representative here who will speak.

COMMISSIONER SHEEHAN: Great.

CHAIRPERSON CHIANG: Very good. Any other additional comments?

COMMISSIONER GARAMENDI: No.

CHAIRPERSON CHIANG: Okay. We have a couple of individuals who have requested time to speak.

First is Tim Hemig, who is the director of NRG Energy, Incorporated, followed by Angela Haren with the California Coastkeeper Alliance.

Tim, welcome.

MR. HEMIG: Thank you. Good morning, Mr. Chairman and Commissioners. And yes, my name is Tim Hemig with NRG Energy, and I'm pleased to be here.

NRG Energy is an independent power producer.
We have 2000 megawatts of power-generating capability in California. That's about 1.5 million homes' worth of electricity, to bring it down to earth on that.

We predominantly make that power with three coastal power plants in Southern California, two of which have State Lands leases, and we've been before you recently for lease amendments.

Over the past few years, NRG has embarked on a repowering initiative. We want to modernize these aging power plants and make them more efficient. In fact, last year we completed the retooling of our Long Beach plant.

A key component of the repowering is to eliminate the once-through cooling side of that, and Long Beach last year became a completely air-cooled plant and is no longer using once-through cooling.

We have similar projects in Carlsbad, California and El Segundo, California. These projects will improve their fuel efficiency by 30 percent and eliminate once-through cooling on a portion of each of the plants.

These projects need support. It's difficult to develop in a coastal zone, so we appreciate the support. And within this resolution, there is support for these projects; so we endorse this resolution.
I want to make sure to point out that we will work with National Marine Fisheries Service on the take permits as mentioned also within this resolution. And in fact, we submitted those applications eight years ago at their request, and so it's just kind of interesting that just now we're receiving notices of receipt of application.

But we will work with them to make sure we manage the issue. In fact, it really, as long as I've been working with the company, for nine years, we haven't had take or harmed animals, marine mammals or sea turtles. In fact, we've -- the best stories are how we've protected them.

The marine mammals, like the harbor seals, sometimes come nearby. And if they're hurt or sick, we actually, because we have operations near the water, we can see that, and we can call -- like down in Carlsbad, we call the Hubbs Sea World next door to us, and they come out and they help these animals.

There was a mother and a baby seal that was taken care of by Sea World and released back into the environment. Without us being nearby to see that, that animal may not have recovered.

So anyway, we urge your approval of the resolution and ask for continued support for our
repowering plants.

CHAIRPERSON CHIANG: Very good. Thank you, Tim. Angela.

MS. HAREN: Good morning, Chair and Commissioners. I'm Angela Haren, Program Director for California Coastkeeper Alliance.

We commend you for your continued support and leadership on protecting our coastal ecosystems. We strongly support the resolution, and we urge you to pass it today.

We also submitted a letter last week. It was sort of last minute, but I just wanted to call your attention to it and mention that several organizations who couldn't be here today, including Heal the Bay, Surfrider Foundation, Sierra Club California, Defenders of Wildlife, all signed on to our letter and support this resolution.

As you've mentioned, Ms. Sheehan, in 2006 this commission passed a resolution acknowledging that once-through cooling causes significant ongoing damage to our valuable marine ecosystem.

Since then, the State Water Board has been working on a statewide policy to phase out once-through cooling. They just released the staff draft scoping document a couple of weeks ago which outlined that they
will be likely to phase out once-through cooling over a time period.

Therefore, we believe that any incidental take permits issued by the National Marine Fisheries Service should be drafted to be consistent with these likely future regulations and, as you have done, include a clause that a take permit would expire if once-through cooling is no longer permitted at a particular facility or within the state in general.

Also, as we mentioned in our letter, it's important to note that the Marine Life Protection Act Initiative will be moving to Southern California later this year; and as you know, the Act calls for the creation of a network of scientifically based marine protected areas to protect the natural diversity and integrity of the marine ecosystems.

We're fairly confident that the MLPA will inevitably focus on many of the same important areas that are affected by the concentration of once-through cooling plants in Southern California right now. These are the exact same plants that are seeking incidental take permits for endangered, threatened, and protected species.

In order to ensure actual protection for critical marine habitats and species, we must be
consistent across all regulatory processes, and we feel that incidental take of marine mammals and turtles off California shores should be a thing of the past. Passing this resolution today will help to ensure that the National Marine Fisheries Service incidental take permits will be consistent with California's laws supporting a healthy ocean and the coming statewide policy to phase out once-through cooling.

Thank you for exercising your Public Trust responsibilities to protect California's world-renowned ecosystems, and thank you for the opportunity to speak today.

CHAIRPERSON CHIANG: Thank you Angela. Are there any other comments?

COMMISSIONER SHEEHAN: I have a question for staff. Following up on Tim's experience with MMS, having eight years to wait for an application, I assume we don't have any applications before us?

EXECUTIVE OFFICER THAYER: I don't think we have any applications.

(Laughter)

EXECUTIVE OFFICER THAYER: I should point out that Ms. Haren's letter which she spoke about is before the Commissioners under the blue sheet.
COMMISSIONER SHEEHAN: I will move approval if there's no other comments.

CHAIRPERSON CHIANG: Thank you. Second?

COMMISSIONER GARAMENDI: Before I second it, what is the problem and at what power plants?

EXECUTIVE OFFICER THAYER: There's a list of power plants, and different for those that are potentially taking marine mammals like seals and for turtles.

The history that I've read about it indicates that at some of the plants there isn't any issue at all; in others, perhaps one to two turtles might be taken over a ten-year period. They get sucked in by the once-through cooling apparatus that's intaking all this water. So technically, these are violations of several different federal laws unless they obtain an incidental take permit.

Our resolution urges that, okay, if you are going to grant this you do everything you can, require everything possible to prevent the take, but then inevitably if that's going to be an issue, then they're required to get these permits.

COMMISSIONER GARAMENDI: The two nuclear plants: Are they the principal ones of concern?

EXECUTIVE OFFICER THAYER: No, there's a list
of -- I can't remember how many. Ms. Haren, do you know?

MS. HAREN: There's 13 for the marine mammals and I believe seven for the sea turtles. Take. And most of them are concentrated in Southern California.

San Onofre I know was listed for marine mammals.

CHAIRPERSON CHIANG: And Diablo Canyon?

MS. HAREN: I don't recall. I'm sorry.

COMMISSIONER GARAMENDI: I'd be interested in finding out the extent of the issue.

EXECUTIVE OFFICER THAYER: We'll find out.

COMMISSIONER GARAMENDI: And having said that, I second.

CHAIRPERSON CHIANG: We have the motion seconded. Without objection, the motion passes. This concludes the regular calendar.

Are there any speakers that wish to speak, address the Commission, during the Public Comment period?

We have two people. First John Asuncion followed by Ruth Gravanis. Then we have a third.

Okay. We'll have John then Ruth first.

EXECUTIVE OFFICER THAYER: And I would point out -- of course, it's at the Chair and Commission's discretion -- but our general practice has been to
allow about three minutes per speaker.

CHAIRPERSON CHIANG: We'll adhere to that.

MR. ASUNCION: Thank you, Mr. Chair and Members. Yes, I'm John Asuncion, and I'm the president and founder of the Blue Whale Sailing School. We're a charitable educational corporation here in the state for the last 14 1/2 years.

In the year 2000, we adopted the Alviso Slough, and we have removed approximately, right now to date, 49 tons of garbage out of the South Bay, removed all the boats. We've been doing the State's job.

I take no credit for it. I give the credit to all of the volunteers and the taxpayers of the South Bay. We are an organization that doesn't just talk about it, we do the job. Okay.

We have been removing boats, working with California Fish and Game, and we're concerned, again, about our neighbors, the South Bay Yacht Club.

Not trying to be rude to them, but it isn't a yacht club. If you could see the photographs -- and I think you've seen them over the years -- it's almost disgusting what has been taking place with the discharge of the human waste, abandoned boats, and to be honest with you, I'm tired of it.

I filed a lawsuit -- we had the Yacht Club and
the Water District in court last week. We're getting
an injunction. Paul Thayer brought up about they're
hoping to get a lease signed by the 8th of this week.
We are going to stop that lease. We are not going to
condone a yacht club that's been polluting the
properties of the taxpayers, all of us taxpayers, for
over 30 years and not standing up to be responsible.

Myself and one of our assistants, Doug Boyd,
seven years ago, Cruz Bustamante was Lieutenant
Governor, and Steve Westly, they asked us to come to
the Commission. We in turn did. Here it is, years
later. We are no closer. They are no closure in
getting that lease. Okay?

They are trying to piggyback on a lease. I
mean, a lease with the Water District and use a format
of the environmental impact studies on the particular
environmental area they've destroyed, and it's not
going to happen.

We met with the water district, Beau Goldie,
and he says it's not going to happen. So December --
when December comes, they are still not going to have
this permit. They are not going to have the lease.

Wednesday of this week, I will have the
California Fish and Game that I have been working with
for eight years -- I have two lieutenants, the chief of
the fire department of the City of San Jose will be there. They're probably going to cite State Lands Commission again and the Water District and the South Bay Yacht Club with this pollution.

This pollution is appalling. I sit here as a boater and a yachtsman and look out here in this bay, when I'm out on my boat, or down in Southern California where I live, and to see this pristine bay, and we need to protect it.

Again, here I'm talking as a taxpayer, okay? Let's do something about this. We cannot let this go on.

Thank you very much for your time.

CHAIRPERSON CHIANG: Thanks John. Ruth, followed by Sandra.

COMMISSIONER GARAMENDI: Ruth, are you on the same subject? Different subject. Same issue?

MS. GRAVANIS: Good morning, Commissioners.

My name is Ruth Gravanis, and I welcome you to San Francisco. It's a real treat to have you meet here.

And I also want to commend you for the passage of the previous item. There's never too much we can do to protect our precious marine resources, and I'm very grateful for your interest in that topic.

The next speaker will talk more specifically
about the need for more education of our Public Trust trustees, but I want to emphasize one aspect of the education that I feel is really needed and that is: What are the duties of a trustee with respect to the uplands that are now more and more being brought into the Public Trust through various trades?

And I didn't have to bring any visuals this morning because if you look out the window past the drawings, you see Yerba Buena Island and Treasure Island.

And as you know, the Public Trust is expected to be lifted from Treasure Island to allow the development of housing there which we all support, but then what do you do? We're going to impress it on Yerba Buena Island which as you can see is not a place for navigation or fisheries.

So how do the trustees regard these areas such as the uplands on Mare Island as well as Yerba Buena Island where fishing and navigation are no longer relevant? What should be our priorities? How do we impress upon them that preservation of land in its natural state, for example, is one thing that needs a lot more attention than it has been given in the past?

So we have lots of issues in San Francisco. We have the use of the historic buildings on Treasure Island.
Island also. I think you can see a part of Building One, the administration building, the two historic hangars. What are Trust-consistent revenue-generating uses that we can put there?

Some of the development efforts are considering things like parking lots there. And I think we need to look very, very closely at how to preserve the meaning of the Public Trust in these buildings.

Seawall Lot 337 in San Francisco is about to undergo major development, and very welcome development for the most part. But we need to look carefully at how to preserve the spirit of the Public Trust doctrine even though Senate Bill 815 did remove the restrictions on Public Trust uses on most of that site.

Then of course the development of Hunters Point shipyard and Candlestick Point have some Public Trust areas still that we need to regard very, very carefully.

I want to point out that I am very grateful for the ongoing working relationship that the Public Trust Group has had with the State Lands Commission staff, that you know we really appreciate that and look forward to working with all of you in the future.

CHAIRPERSON CHIANG: Thank you very much,
Ruth. Sandy?

MS. THRELFALL: Good morning, Chair and Commissioners. My name is Sandy Threlfall with the Public Trust Group. Ruth and I are on the executive board.

I have submitted for your records two documents, a rather lengthy document which I am surprised to see actually refers to this project right here. I didn't see it on the agenda, but it was very thoughtful of you to put the map up.

And that has to do with the Public Trust trade that is proposed to happen with this project. The letter indicates that under Chapter 542, Perata's act, that allowed the trade there was no trade land sited.

The Port has since bought the land that they now want Public Trust Lands to approve which to me circumvents a public process that is required in chapter 542.

So, it's something that's difficult to summarize in brief. Hence, I've given you my documents.

What I would like to do is have your help and the staff's help in working on a trustee handbook that -- the Public Trust Lands are a very finite resource, and there is some confusion and difficulty on
the part of trustees, given the turnover with port
commissioners and such, and certain legal
representatives who did not recognize value of the
Public Trust doctrine and the fact that they are in
fact guiding the trustees gives us considerable worry.

So what we would love to do and what the State
Land's staff did very well a year and a half ago, we
asked for workshops. You did it. You helped them
happen.

We had asked for workshops for trustees. The
only workshop that I attended was in San Francisco
which covered Port of Oakland, the Port of San
Francisco, the Port of Richmond, and I'm sure there are
a couple of the trustee groups in this. There was one
trustee present. One.

So while the workshop intent was for trustees,
they were public meetings. The public very much
appreciated the information because this is a very
difficult concept. What we're hoping we can help work
with staff on is a handbook.

The website is excellent if you are an
attorney or a very knowledgeable individual. It has
the doctrine, and it has the policy. But I think not
all trustees are attorneys, and trustees also have
the -- I hate to say, but the conflict of being...
responsible for the financial position of their port. And ofttimes, that is at odds with Public Trust Lands. It doesn't need to be. I think in the confusion of what the value of the Public Trust Lands are they don't always get the interpretation.

I have talked with the Executive Director of the staff, and I'm feeling that we can work together to create a handbook that's both visual and verbal.

The sense of how the Trust lands have been constricted and how much more valuable they are as our population continues to grow. Yes, for marine. Yes, for other water-related things. But also for access, and water is the best therapy in the world. Get people to the water; it reduces stress.

So I see the Public Trust Lands as an incredible asset, and we would like to do our part to get a handbook. Thank you very much.

CHAIRPERSON CHIANG: Happy to have that conversation with you. Thank you. Are there any other public comments?

COMMISSIONER GARAMENDI: I have a couple of questions, if I might, Mr. Chairman.

CHAIRPERSON CHIANG: Sure.

COMMISSIONER GARAMENDI: So the Public Trust Group wants to help put together an understandable
handbook for the lay population. How could we do that
Mr. Thayer?

EXECUTIVE OFFICER THAYER: I think --

COMMISSIONER GARAMENDI: How can we assist
them getting it done?

EXECUTIVE OFFICER THAYER: We certainly should
be able to do that. Through the past few years, we've
undertaken a variety of measures to try and promulgate
the Public Trust principles.

I think when you first came on we were sharing
our Public Trust brochure that's available to the
public. And several years ago, the Commission adopted
a Public Trust Policy and an explanation of that policy
which we keep up on the website. All these documents
have been forwarded to the grantees.

But we'd be happy to, I think, relying on a
lot of that information, generate something that might
be a little bit more user friendly.

With respect to the trustees, I think though
that they have a more complicated responsibility that's
dictated by law. And I think to some extent, by the
nature of that, any sort of handbook that's going to be
helpful to them is going to have to be a little bit
legalistic because that's what's involved here.

There is very complicated case law, and in
order to give them something that would be useful as a handbook rather than just as a brochure, we're probably going to have to be somewhat technical. But there's no reason why we can't do an overview as an introduction to that that's more generally written.

But we'd be glad to work on that, bring it back to the Commission for its review.

COMMISSIONER GARAMENDI: Apparently some people think it's necessary.

EXECUTIVE OFFICER THAYER: Sure.

COMMISSIONER GARAMENDI: The Public Trust group. Okay. And you will look into it.

EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER GARAMENDI: I want to go back to the Aviso Slough issue presented by you and by a member of the public. How does our action on the lease address the problems that were presented by Mr. Asuncion?

EXECUTIVE OFFICER THAYER: Basically, all of those issues do have to be addressed. And I would disagree with him, though, in terms of how we're going to get to that.

I think Mr. Asuncion stated that they want to see the Yacht Club out of there entirely, whereas we're working to get the Yacht Club to comply with the lease.
and prevent these problems from occurring.

So Mr. Asuncion today indicated that he was going to be opposing the district issuing a lease, and yet BCDC has informed us and the Yacht Club that without that lease from the district they're disabled from issuing a permit for some of the repair work.

So there is some conflict going on there. And we're going to continue to try and work with the lessee to clean up the site.

COMMISSIONER GARAMENDI: So there is a potential catch-22.

EXECUTIVE OFFICER THAYER: Yes. Ultimately, if the Yacht Club does not have a lease from the district, it has no business maintaining its facility on district lands.

And I don't remember the exact percentage, but it's somewhere 60/40 or 50/50 in terms of the split between how much of their facility is on State lands and how much of it is on District lands.

COMMISSIONER GARAMENDI: So we may wind up in a no-win situation.

EXECUTIVE OFFICER THAYER: That might be the case.

COMMISSIONER GARAMENDI: So if Mr. Asuncion's lawsuit prevents the District from issuing a lease, we
can't issue a lease, and the Yacht Club can't clean up its mess.

EXECUTIVE OFFICER THAYER: Now we would still, of course, be responsible for taking actions to assure that that part of the Yacht Club that's on State lands would be cleaned up.

But for the Yacht Club, it puts it in a very difficult position if can't get the permits for the remainder.

And, of course, some of the pollution problems that Mr. Asuncion refers to aren't going to respect that line. If they're created on the other side, even if we clean up our side, there are problems.

COMMISSIONER GARAMENDI: Under the existing lease, is there a termination and termination of the lease, is there -- should the lease terminate, is there a mechanism to force the Yacht Club to remove and clean up?

EXECUTIVE OFFICER THAYER: Certainly.

Absolutely.

COMMISSIONER GARAMENDI: Whether they have the resources to do it or not is another matter.

EXECUTIVE OFFICER THAYER: Exactly. Which is one of the reasons we're hopeful of working it through with the present ownership and the present tenants.
Because if they go away, there are probably not going

to be the resources available to do that.

COMMISSIONER GARAMENDI: Thank you for that.

On a related matter, it's the cleanup of
derelict boats and others that Mr. Asuncion raised the
point that they do a lot of that, and I think he said
the State doesn't do much, if any, of that.

Whose responsibility is it at the State level
to remove boats?

EXECUTIVE OFFICER THAYER: There are several
agencies that have undertaken it; and in certain
circumstances where we've been able to find the money,
we've gotten involved. So for example, the last time
the O'Learys had a boat outside Sacramento, city of
Sacramento, we were able to get that taken care of.

But we normally don't have enough money to do
it. We have occasionally asked for appropriations, and
we received some 10 or 15 years ago to clean up hazards
to navigation which we define to include old pilings,
old peers, and abandoned vessels. So we've undertaken
that effort before when we've had the money, but we
don't have the money now.

There was a State law passed three or
depend any four years ago which made money available, I think
through the Department of Boating and Waterways, to
sheriffs of individual counties to remove abandoned vessels.

There are a lot of criteria that have to be met in order for the sheriffs to use that. It's not a lot of money, and the vessel that's being taken care of has to be worth less than $1,000 or something. It's a very low amount, so the counties are sometimes reluctant to move in for fear that the vessel's worth more and they don't have the authority to do it.

COMMISSIONER GARAMENDI: I was on the Sacramento River yesterday north of the confluence of the American, and there is this marvelous piece of trash along the east side of the river, just upstream. I don't know. Looks like an ancient boat or dock. God knows what it is.

Who is responsible for cleaning that kind of thing up?

EXECUTIVE OFFICER THAYER: Could be us, could be one of these other state agencies. But often it's not taken care of because no one has the money.

COMMISSIONER GARAMENDI: Have we ever asked for money to clean up, for example from the Boating and Waterways fund to get specific -- to take on the responsibility and to get the money from that fund?

EXECUTIVE OFFICER THAYER: That program
statutorily was set up to make the money available to
the counties with the idea that they, their sheriffs --
like frequently they have boat patrols, that kind of
thing -- are much more aware of the individual hazards
that are out there we can't be aware of since we don't
have boats, we don't have the opportunity to be out
there as much, we don't have the presence.

COMMISSIONER GARAMENDI: But we do have the
ability to contract.

EXECUTIVE OFFICER THAYER: We do.

COMMISSIONER GARAMENDI: If we have the money.

EXECUTIVE OFFICER THAYER: If we have the
money.

And as I say, we've done that for other
hazards. We're doing that right now, for example, off
of Santa Barbara. I think your office received a
letter from somebody who was concerned about these
metal pilings that have become exposed.

We were able to get money from -- there's a
program called CEIP, Coastal Environmental Impact
Program, which is a federal program that makes money
available to the State to deal with really offshore
oil-related impacts.

So we're always looking for opportunities like
that to deal with these issues, and we've made budget
change proposals to the Legislature in the past to take
care of hazards in general that would include boats but
haven't been able to get it.

COMMISSIONER GARAMENDI: Snags that are stuck
in the bottom of the river that present hazards to
boaters, is that State Lands' responsibility since the
bottom of the river is state land?

EXECUTIVE OFFICER THAYER: To some extent, and
that hazardous money was going to be used for that sort
of thing; but the Coast Guard also has a program for
removal of some of that, I know in the bay, for
example.

COMMISSIONER GARAMENDI: Corps of Engineers.

EXECUTIVE OFFICER THAYER: Corps of Engineers.

COMMISSIONER GARAMENDI: Is there any effort
to coordinate with them? Have we made any effort to
coordinate with them?

EXECUTIVE OFFICER THAYER: We have not, again
primarily because the information we get about that is
pretty anecdotal. We don't have the ability to go out
there and survey and determine where are the worst
hazards, where should the money go.

We conducted a statewide study on hazards with
a special appropriation back in the '80s, and we filled
up three volumes with places that should be removed,
and we estimated at that time about $12 million, I think, would take care of all of it. We received $2 million and abated, you know, the worst of them. But there were still ten million left at that point, and I'm sure there are a lot more.

COMMISSIONER GARAMENDI: Mr. Chairman, may I make a suggestion that we instruct the staff to do a survey of funding that might be available, federal, funding from the Corps, the Coast Guard, and also State funding, for example Boating and Waterways funding, permits, licenses, and so forth, and get a sense of what might be available.

It seems to me that many of these things are stuck into the mud that we are responsible for, or the bottom of the river that we're responsible for, or the side.

And I had a long discussion yesterday about this, so excuse me for dumping it on you today without notice, but I'm there. And the discussion was everybody's responsible but nobody is responsible.

It seems to me that we have the Public Trust, and that's our responsibility, and much of this is on Public Trust land; and therefore, why don't we assume we're responsible and go search for the money?

The Department of Finance, of course, is
desperately interested in assisting us in finding the
money.

COMMISSIONER SHEEHAN: As long as it's not
general funds, you can look anywhere you want.

(Laughter)

COMMISSIONER GARAMENDI: Well, the nexus is
between the Boating and Waterways, hazards of various
types, three of which I saw yesterday, trash. You
mentioned the paddle wheeler which, in your discussion,
you brought that up.

Anyway, why don't we go get with it and search
for the money and try to find it. It is the budget
season, and one never knows what's hiding in various
closets. So let's go push aside the cobwebs and see if
there's a little cash cache there.

EXECUTIVE OFFICER THAYER: We'll report back
to the Commission on what programs are in existence,
but we do look regularly for this. I mean it's a
problem that's continually coming to us, and it should.

In fact, in the East Bay, we voluntarily were
involved with a self-help program where we helped
organize cleanup, so Slough worked with the local
agencies, BCDC, then we managed to get a garbage
company that was willing to take away the debris. So
it all worked out, but it was done on a sort of ad hoc
COMMISSIONER GARAMENDI: Well, let's assume that the Department of Water Resources wants to position a lot of riprap on State lands. And the barge company going up and down the river with their marvelous little machines can pick up trash along the way in exchange for access to State lands.

They've got a gazillion dollars. Let's be creative. I'm sure there are opportunities, and I'm sure Anne has access to a lot.

(Laughter)

CHAIRPERSON CHIANG: I think John's had many excellent ideas just articulated. I think it's a strong sense of the Board we ought to go forward with John's ideas.

Any other questions or comments? Okay.

That includes the Open Session of the meeting.

We will now adjourn into Closed Session. If we could have the room cleared for Closed Session, please.

(Closed Session)

* * *

(Thereupon the CALIFORNIA STATE LANDS COMMISSION meeting adjourned to Closed Session at 10:42 a.m.)
CERTIFICATE OF REPORTER

I, LINDA KAY RIGEL, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing CALIFORNIA STATE LANDS COMMISSION meeting was reported in shorthand by me, Linda Kay Rigel, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this May 11, 2008.

LINDA KAY RIGEL, CSR
Certified Shorthand Reporter
License No. 13196